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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,880	01/24/2001	Bertrand A. Damiba	BVOCP001	5478

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EXAMINER	
MCFADDEN, SUSAN IRIS	
ART UNIT	**PAPER NUMBER**
2655	

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/769,880	DAMIBA, BERTRAND A.	
	Examiner	Art Unit	
	Susan McFadden	2655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 May 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,11, and 16-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,11 and 16-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 2/25/05
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. In view of the Appeal Brief filed on 5-13-05, PROSECUTION IS HEREBY REOPENED as set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 is confusing since it has no actual structural elements; it is drawn to a "system", but the "logic" cannot actually perform the functions recited.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,2,4,5,6,11, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Yazaki et al. (5,991,719).

In regard to claims 1,2,6,and 11, Yazaki et al. show in Figure 1, a system and method (including computer code and logic for) for improving a speech recognition process, comprising: maintaining a database of utterances (item 41); collecting information associated with the utterances in the database utilizing a speech recognition process (item 42); transmitting the utterances in the database to at least one user interface utilizing a network (interface, Internet, col. 15, ln 12-15, Fig. 14, item 110), receiving transcriptions of the utterances in the database from the at least one user interface utilizing the network (item 50), wherein a human is capable of utilizing the information and the transcriptions to improve a speech recognition application.

In regard to claims 4 and 20, Yazaki et al. show that the speech process is improved by performing experiments based on the information ("language can be selected or updated freely by the user", col. 12, ln 60-66).

In regard to claim 5, Yazaki et al. show that the information includes a recognition result (col. 12, ln 55-60).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

> the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 3,16-19 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yazaki et al. (cited above) in view of Kanevesky et al. (6,665,642).

In regard to claim 3, Yazaki et al. show the system above. They do not specifically show that transcriptions are received from the user interface using a network browser. Kaneveksy et al. show a speech recognition system that includes a network browser (Abstract, Fig. 1A). Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to add this feature because browsers increase the flexibility of the Internet.

In regard to claims 16 and 17, Yazaki et al. show the system above. They do not specifically show that the information is selected from the group consisting of a name of a grammar each utterance was recognized against, a name of an audio file on a disk, a directory path to the audio files a size of the audio, a session identifier, an index of each utterance, a dialog state, a recognition status, a recognition confidence associated with a recognition result, a recognition hypothesis, a gender of a speaker, an identification of a transcriber, and a date the utterances are transcribed or that the information includes a name of a grammar each utterance was recognized against a name of an audio file on a disk, a directory path to the audio file, a size of the audio file, a session identifier, an index of each utterance, a dialog state, a recognition status, a recognition confidence associated with a recognition result. Kaneveksy et al. show the system above that includes a user database which could inherently contain those desired items. Therefore, it would be obvious to one of ordinary skill in the art at the time of the

invention to add these items they make the system more user-friendly by storing more user-specific data.

In regard to claims 18 and 19, Yazaki et al. show the system above. They do not specifically show that the database is capable of being queried for results selected from the group consisting of a number of the utterances, a percentage of rejected utterances for a grammar, an average length of each utterance, a call volume in a predetermined range, a popularity of a grammar state, and a transcription management parameter, wherein the utterances and the information are stored in the database and the database queried for results includes a number of the utterances, a percentage of rejected utterances for a grammar, an average length of each utterance, a volume in a predetermined range, a popularity of a grammar state and a transcription management parameter. Kaneveksy et al. show the system above which includes a user database which could inherently be queried based on the users preferences. Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to add these functions because they make the system more user-friendly.

In regard to claims 21 and 22, Yazaki et al. show the system above. They do not specifically show that icons are used. Kaneveksy et al. show a speech recognition system which includes the use of various icons (col. 2, ln 5),wherein the at least one user interface includes additional icons for emitting previous and next utterances upon the selection thereof (visual transformation module, col. 13, ln 35-50). Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to add this feature because it makes the system more user-friendly.

In regard to claims 23 and 24, Yazaki et al. show the system above. They do not specifically show that at least one user interface includes a string field for allowing a user to enter a string corresponding to each utterance and a comment field for allowing a user to enter comments regarding a plurality of transcriptions. Kaneveksy et al. show a speech recognition system which includes the use of a string/comment fields (entering alphanumeric text, col. 11, ln 55-60). Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to add these features because it makes the system more user-friendly.

7. Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yazaki et al. (cited above) in view of Beauregard et al. (5,974,413).

In regard to claims 25 and 26, Yazaki et al. show the system above. They do not specifically show that the at least one user interface includes a hint menu for allowing a user to choose from a plurality of strings identified by the speech recognition process or that the hint menu allows the user to do a mental comparison between the utterances and results of the speech recognition process. Beauregard et al. show a semantic user interface system which includes the use of giving "hints" (col. 29-30). Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to add these features because it makes the system more user-friendly.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claim 11 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 11 falls into this category because it merely recites a logical structure.

Since the claimed "logic" can be a computer program and the program is not embodied on a computer readable medium, this claim is construed as a computer program. Claim 11 is therefore drawn to a "program" *per se* as recited in the steps and as such is non-statutory subject matter. See MPEP § 2106.IV.B.1.a. Data structures not claimed as embodied in computer readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed computer readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. Similarly, computer programs claimed as computer listings *per se*, i.e., the descriptions or expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and

other claimed elements of a computer, which permit the computer program's functionality to be realized.

The features of the invention that would render the claimed subject matter statutory if recited in the claim is to include data input to the system and how it is measured and converted to the desired data. This would place the claims into a so-called "safe harbor" by requiring a physical act outside a computer (the physical input of speech and subsequent change of physical attributes thereof).

Another option would be to add limitations that indicate the practical use of the resultant data in an overall system.

For the claimed process to be statutory, the claim must either: (A) result in a physical transformation outside the computer for which a practical application is either disclosed in the specification or would have been known to a skilled artisan (pre-computer or post-computer process activity), or (B) be limited to a practical application.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan McFadden whose telephone number is 571-272-7621. The examiner can normally be reached on Monday-Friday, 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571-272-7582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susan McFadden
Primary Examiner
Art Unit 2655

June 21, 2005

approved to reopen prosecution

W. R. YOUNG
PRIMARY EXAMINER
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